



State of Connecticut
Department of Developmental Services

DDS

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DEPARTMENT OF DEVELOPMENTAL SERVICES TESTIMONY
BEFORE THE HUMAN SERVICES COMMITTEE
March 11, 2021

Senators Moore and Berthel, Representatives Abercrombie and Case and members of the Human Services Committee, I am Jordan A. Scheff, Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to testify on **H.B. No. 6560** **AN ACT CONCERNING TIMELY PAYMENTS TO PERSONAL CARE ATTENDANTS.**

This legislation outlines fiscal intermediary requirements to: (1) pay personal care attendants (PCAs) on time; (2) have safeguards in place to correct issues with PCA time sheets and approvals in a timely manner; (3) notify both employee and employer if there are issues with the PCAs time sheet or on-time payment; and (4) if there is an issue that is not resolved by the time the PCA's wages are paid, requires the FI to correct the discrepancy and pay the PCA within 48 hours.

For background, DDS contracts with two fiscal intermediaries, Sunset Shores and Allied, to provide administrative support, including training and payroll functions, to individuals that self-direct their DDS-funded services. As of December 2020, DDS had approximately 1,500 individuals that chose to self-direct their services. Self-direction is an important facet of the DDS continuum of services that empowers individuals with intellectual disability to live the life they desire. Individuals that decide to self-direct design their own support plans, control their own budgets, hire and manage their own staff and make their own choices. The individual or their representative is the employer of record for any staff and has the power to choose who they hire and when it is appropriate to terminate an employee, including Personal Care Attendants (PCA). Neither the fiscal intermediary, nor the state, is the employer of the staff that an individual hires with funding for self-directed services.

Seeing that PCAs and other employees employed by individuals who self-direct their services are paid on time for the hours they work is a priority for the department. DDS understands and believes that all employees, have the right to timely payment of wages. DDS also is aware of complications that have led to processing delays related to the payment of PCAs on a weekly basis through our fiscal intermediaries. DDS continues to work in collaboration with the Department of Social Services (DSS), Office of Policy and Management (OPM), the PCA Workforce Council and the fiscal intermediaries to address and resolve these issues, while continuing to focus on improving payroll functions to avoid future complications.

Subsection (b) of this legislation outlines new requirements for fiscal intermediaries specific to payment of wages for PCAs and notification of employees if there are problems with the reporting of time worked.

Both fiscal intermediaries that DDS contracts with have a detailed process in place regarding timesheet review and payroll verification. Payment to employees under self-directed services is done on a weekly basis. To ensure timely payment, the fiscal intermediaries require the employer (i.e., the individual who self-directs services) to submit the employee's (PCA's) timesheet by a certain date and time during the week. Allied also sends employers an automated call the night before payment confirming the number of employees being paid for that payroll. This allows an opportunity for the employer to receive notification that an error may have occurred and time to correct that error. In addition, Allied provides the option for self-directed employees to receive an automated call or text (depending on their preference) confirming their payroll has been processed. There are circumstances, however, where timesheets are submitted late or have other problems that may result in delayed payment. Specifically, examples of timesheet errors that may delay processing include:

- Employer signature is missing;
- Hours are incorrect or missing;
- Service dates are incorrect or missing; and
- Dates, times, or other information on the timesheet is not legible.

Subsection (c) would require the collection of fines of twenty-five dollars per day for each separate violation by the fiscal intermediary of timely wage payment to PCAs and of the requirements in subsection (b) of the bill. A specific state agency or entity has not been identified in the bill that would impose and collect these fines. Besides being a new requirement imposed on an as-yet-to-be-named state agency, these fines would be an unfair burden on the fiscal intermediaries, which in many cases may not even be responsible for the reporting and timesheet inaccuracies that may lead to a paycheck not being issued in a timely manner.

These fines also could prove to be disincentives for the fiscal intermediaries to perform Medicaid-required reviews to certify the accuracy of all timesheets and wage payments made to employees of individuals who self-direct services. To avoid fines that could add up quickly, fiscal intermediaries might choose to approve payments to employees without checking for simple inaccuracies or for evidence of fraud. Any overpayments of wages would then be required to be recouped by the fiscal intermediaries from the employees who had been overpaid. While the intent of the fines may be to get all employees paid on-time by fiscal intermediaries, the fines may well lead to errors in the payment of wages that could run afoul of Medicaid requirements and thus jeopardize DDS's self-directed services program.

This bill avoids making fiscal intermediaries the employers of record for PCAs, which is one of DDS's major concerns with the Labor and Public Employees bill [S.B. No. 942 AN ACT CONCERNING THE ON-TIME PAYMENT OF WAGES](#) that was heard in the committee on March 4, 2021. But, [H.B. No. 6560](#) still would add various statutory requirements and fines, which should be contractual requirements and penalties agreed to by a fiscal intermediary when it successfully bids on a state contract. A general concern is that the additional requirements and penalties will make it less likely that fiscal intermediaries will take part in a competitive bidding process for a state fiscal intermediary contract. And, without fiscal intermediaries, DDS self-directed services would become a lot more complicated for individual employers, their employees, the PCA Workforce Council, and state human services agencies.

It is important to note that both DDS and DSS are in the process of implementing an Electronic Visit Verification (EVV) system, pursuant to the federal 21st Century Cures Act (P.L. 114-255), for staff hired through self-direction, including PCAs. DDS anticipates this system will greatly reduce the need for paper timesheets and eliminate many payroll-related issues.

DDS is committed to ongoing training for employers of record on timesheet completion and on-time payroll submission to mitigate timesheet-related processing issues. DDS also would like to reiterate our commitment to paying employees of individuals who self-direct their services in a timely manner. DDS will continue to make a concerted effort to work with all stakeholders to address any and all concerns that may contribute to a potential delay in payment of wages.

Thank you again for the opportunity to offer testimony regarding [H.B. No. 6560](#) **AN ACT CONCERNING TIMELY PAYMENTS TO PERSONAL CARE ATTENDANTS**. Please contact Rod O'Connor, DDS Legislative Liaison, by e-mail at rod.oconnor@ct.gov or by text at 860-883-0727 with any questions.